

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**
No. 3:20-CV-00710-FDW-DSC

HAYWARD INDUSTRIES INC.,

Plaintiff,

v.

BLUEWORKS CORPORATION,
BLUEWORKS INNOVATION
CORPORATION, NINGBO C.F.
ELECTRONIC TECH CO. LTD and
NINGBO YISHANG IMPORT AND
EXPORT CO. LTD.

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT upon Plaintiff Hayward Industries Inc.’s Motion for Alternative Service on Defendants Ningbo C.F. Electronic Tech Co. Ltd. and Ningbo Yishang Import and Export Co. Ltd. (collectively “Ningbo”) (Doc. No. 10). Pursuant to Fed. R. Civ. P. 4(f)(3) and 4(h)(2), Plaintiff seeks to serve Ningbo by email and by message through Ningbo’s interactive website and storefront on Alibaba.com.

The Ningbo entities are located in the People’s Republic of China. The Court finds that service through the Hague Convention to Chinese entities could take “1-2 years to complete and is frequently unsuccessful.” *See Celgard, LLC. v. Shenzhen Senior Tech. Material Co.*, No. 3:20-CV-130-GCM, 2020 WL 2575561, at *3 (W.D.N.C. May 21, 2020). Additionally, the Hague Convention, as agreed between China and the United States, does not prohibit service by email as it does by “postal channels.” Hague Conv. Art. 10(a), 20 U.S.T. 361. The Court may order

alternative means of service, such as email, that are not specifically referenced in Article 10 of the Hague Convention. *See, e.g., Gurung v. Malhotra*, 279 F.R.D. 215, 219 (S.D.N.Y. 2011).

The Court further finds that serving the Ningbo entities by (1) email and (2) Ningbo's electronic storefront will likely reach the Ningbo Defendants and will thus provide notice of the Summons and Complaint to them. Therefore, such means are reasonably calculated to provide actual notice to Ningbo and comport with constitutional due process.

IT IS THEREFORE ORDERED THAT service upon the Ningbo entities may be effectuated by alternative means. Plaintiff is hereby ordered to serve the Summons and Complaint as soon as practicable by:

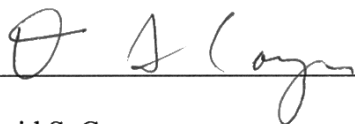
- (1) Email to richard@techlife.com;
- (2) Email to info@techlife.com; *and*
- (3) The "Contact" page on Ningbo's Alibaba.com storefront, which permits attachments.

Plaintiff shall also notify Defendants Blueworks Corporation and Blueworks Innovation Corporation (collectively "Blueworks") of the Complaint and Summons against Ningbo as well as this Order, and Blueworks shall take reasonable measures to ensure Ningbo is aware of this lawsuit.

The Court further finds that this Order will provide notice to Ningbo and comports with due process while ensuring this matter is not unnecessarily delayed.

SO ORDERED.

Signed: January 22, 2021



David S. Cayer
United States Magistrate Judge

